

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Donald Vincent Bernardo,
Debtor

Case No. 08-80681 C-7D

MOTION FOR PUBLIC SALE OF REAL PROPERTY AND TO TRANSFER LIENS TO
PROCEEDS

Now comes Sara A. Conti, Trustee in Bankruptcy for the estate of Donald Vincent Bernardo, (the Debtor), by and through counsel, pursuant to 11 U.S.C. 363 and Rule 6004 of the Federal Rules of Bankruptcy Procedure, and applies to the Court for an order authorizing a public sale of the Debtor's real property described below, and to transfer liens to the proceeds of sale.. In support of her Motion, the Trustee shows the Court the following:

1. The Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code on May 5, 2008, and Sara A. Conti has been appointed to act as trustee for the Debtor.
2. The Debtor is the co-owner of real property consisting of a house and lot at 8703 Calumet Farms Drive, and Lot # 25 Victoria Lake, Waxhaw, North Carolina, (the "Property"). The Property is owned as tenants by the entireties, but the Debtor has considerable joint debt, consisting of medical bills and income taxes, for the payment of which the equity in the entireties property is available.
3. The Trustee has filed an Application to Approve Employment of Auctioneer, Mark Rogers of Rogers Realty and Auction Company, Inc., for such services as may be necessary in selling the Property at public auction.
4. The Trustee believes that the best disposition of the Property will be by public sale, subject to confirmation, to be held on April 29, 2009 at 12:00 p. m. at 8703 Calumet

Farms Drive, Waxhaw, North Carolina, and at 2:00 p.m. at Lot 25, Lake Victoria, Waxhaw, North Carolina.

5. The Trustee is informed and believes that the following claims are liens against the Property: (i) ad valorem taxes for the current tax year and prior years, amount unknown; and (ii) deed of trust in favor of Home Loan Services, Inc., in the approximate amount of \$470,000.00, against the Calumet Farms Drive property only.
6. Pursuant to Section 363(f) of the Bankruptcy Code, the Trustee may sell assets free and clear of any lien, claim or interest in such property if, among other things, such interest is a lien and will be paid in full from the sale proceeds, such interest is in bona fide dispute or such entity could be compelled in a legal or equitable proceeding to accept money satisfaction of such interest.
7. The Trustee believes that the public sale of the Property is in the best interest of the estate, and that the closing of the sale of the Property will be facilitated by the transfer of the liens and other interests of the above-referenced creditors to the net sale proceeds of sale.

WHEREFORE, the Trustee prays the Court for an order allowing the public sale of the Debtor's real property described above, pending confirmation by this Court, transferring liens to the proceeds of sale, and for such other and further relief as the Court deems just and proper.

RESPECTFULLY submitted, this the 19th day of March, 2009.

S/Sara A. Conti, NCSB #9789
Post Office Box 939
Carrboro, North Carolina 27510
919 9673375

CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing were deposited in the United States Mail,
postage prepaid, addressed to the following:

Michael D. West
U. S. Bankruptcy Administrator
Post Office Box 1828
Greensboro, NC 27402

Donald Vincent Bernardo
8703 Calumet Farms Drive
Waxhaw, NC 28173

Wayne Robbins, Esq.
120 Applecross Road, Turnberry Wood
Pinehurst, NC 28374

Matthew T. McKee, Esq.
2701 Coltsgate Road, Suite 300
Charlotte, NC 28211

This the 19th day of March, 2009.

S/Sara A. Conti